

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Cesar Alvaro Rodriguez, M.D.

**Physician's and Surgeon's
Certificate No. A 66159**

Respondent.

Case No. 800-2017-036000

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on SEP 16 2020.

IT IS SO ORDERED SEP 09 2020.

MEDICAL BOARD OF CALIFORNIA



**William Prasifka
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 EDWARD KIM
Deputy Attorney General
4 State Bar No. 195729
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6000
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2017-036000

12 **CESAR ALVARO RODRIGUEZ, M.D.**

OAH No. 2020040126

13 **Physician's and Surgeon's**
14 **Certificate No. A 66159**

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17 entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
20 California (Board). He brought this action solely in his official capacity and is represented in this
21 matter by Xavier Becerra, Attorney General of the State of California, by Edward Kim, Deputy
22 Attorney General.

23 2. Cesar Alvaro Rodriguez, M.D. (Respondent) is represented in this proceeding by
24 attorney Richard F. Hernandez, Esq., whose address is: 818 West Cameron Ave., West Covina,
25 CA 91790.

26 3. On or about July 31, 1998, the Board issued Physician's and Surgeon's Certificate
27 No. A 66159 to Cesar Alvaro Rodriguez, M.D. (Respondent). The Physician's and Surgeon's
28 Certificate was in full force and effect at all times relevant to the charges brought in Accusation

1 No. 800-2017-036000 and expired on June 30, 2020, and has not been renewed.

2 **JURISDICTION**

3 4. Accusation No. 800-2017-036000 was filed before the Board, and is currently
4 pending against Respondent. The Accusation and all other statutorily required documents were
5 properly served on Respondent on February 14, 2020. Respondent timely filed his Notice of
6 Defense contesting the Accusation. A copy of Accusation No. 800-2017-036000 is attached as
7 Exhibit A and incorporated by reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read, fully discussed with counsel, and understands the
10 charges and allegations in Accusation No. 800-2017-036000. Respondent also has carefully read,
11 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
12 and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
15 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
16 to the issuance of subpoenas to compel the attendance of witnesses and the production of
17 documents; the right to reconsideration and court review of an adverse decision; and all other
18 rights accorded by the California Administrative Procedure Act and other applicable laws.

19 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
20 every right set forth above.

21 **CULPABILITY**

22 8. Respondent understands that the charges and allegations in Accusation No. 800-2017-
23 036000, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
24 Surgeon's Certificate.

25 9. For the purpose of resolving the Accusation without the expense and uncertainty of
26 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
27 basis for the charges in the Accusation and that those charges constitute cause for discipline.
28 Respondent hereby gives up his right to contest that cause for discipline exists based on those

1 charges.

2 10. Respondent understands that by signing this stipulation he enables the Board to issue
3 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
4 process.

5 **CONTINGENCY**

6 11. This stipulation shall be subject to approval by the Board. Respondent understands
7 and agrees that counsel for Complainant and the staff of the Board may communicate directly
8 with the Board regarding this stipulation and surrender, without notice to or participation by
9 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
10 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
11 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
12 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
13 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
14 be disqualified from further action by having considered this matter.

15 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
16 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
17 thereto, shall have the same force and effect as the originals.

18 13. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following Order:

20 **ORDER**

21 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 66159, issued
22 to Respondent CESAR ALVARO RODRIGUEZ, M.D., is surrendered and accepted by the
23 Board.

24 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
25 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
26 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
27 of Respondent's license history with the Board.

28 2. The effective date of the Board's Decision and Order shall be September 16, 2020

1 (Effective Date). Respondent shall lose all rights and privileges as a Physician and Surgeon in
2 California as of Effective Date.

3 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5 4. If Respondent ever files an application with the Board for licensure or a petition for
6 reinstatement in the State of California, the Board shall treat it as a petition for reinstatement.
7 Respondent must comply with all the laws, regulations and procedures for reinstatement of a
8 revoked or surrendered license in effect at the time the petition is filed, and all of the charges and
9 allegations contained in Accusation No. 800-2017-036000 shall be deemed to be true, correct and
10 admitted by Respondent when the Board determines whether to grant or deny the petition.

11 5. If Respondent should ever apply or reapply for a new license or certification, or
12 petition for reinstatement of a license, by any other health care licensing agency in the State of
13 California, all of the charges and allegations contained in Accusation, No. 800-2017-036000 shall
14 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
15 Issues or any other proceeding seeking to deny or restrict licensure.

16
17 ACCEPTANCE

18 I have carefully read the above Stipulated Surrender of License and Order and have fully
19 discussed it with my attorney Richard F. Hernandez, Esq. I understand the stipulation and the
20 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
21 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
22 by the Decision and Order of the Medical Board of California.

23
24 DATED: July 30/2020

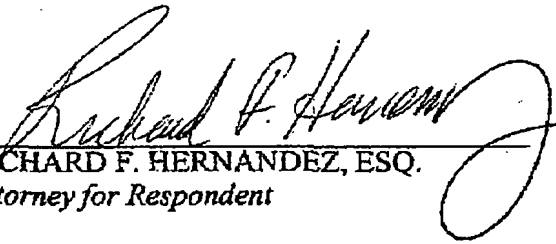
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26 _____
27 CESAR ALVARO RODRIGUEZ, M.D.
28 Respondent

27 I have read and fully discussed with Respondent CESAR ALVARO RODRIGUEZ, M.D.
28 the terms and conditions and other matters contained in this Stipulated Surrender of License and

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Order. I approve its form and content.

DATED: July 30, 2020


RICHARD F. HERNANDEZ, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

EDWARD KIM
Deputy Attorney General
Attorneys for Complainant

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1 Order. I approve its form and content.

2 DATED: _____

3 RICHARD F. HERNANDEZ, ESQ.
4 *Attorney for Respondent*

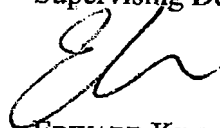
5 **ENDORSEMENT**

6 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
7 for consideration by the Medical Board of California of the Department of Consumer Affairs.

8 DATED: 7-31-20

Respectfully submitted,

9 XAVIER BECERRA
10 Attorney General of California
11 JUDITH T. ALVARADO
12 Supervising Deputy Attorney General



13 EDWARD KIM
14 Deputy Attorney General
15 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2017-036000

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 14 2020
BY M. Francis ANALYST

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CESAR ALVARO RODRIGUEZ, M.D.
1840 North Hacienda Blvd., Suite 3
La Puente, CA 91744

Physician's and Surgeon's
Certificate No. A 66159,

Respondent.

Case No. 800-2017-036000
A C C U S A T I O N

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 31, 1998, the Medical Board issued Physician's and Surgeon's Certificate Number A 66159 to Cesar Alvaro Rodriguez, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2020, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

1 STATUTORY PROVISIONS

2 4. Section 2004 of the Code states:

3 The board shall have the responsibility for the following:

4 (a) The enforcement of the disciplinary and criminal provisions of the Medical
5 Practice Act.

6 (b) The administration and hearing of disciplinary actions.

7 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
8 an administrative law judge.

9 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
10 of disciplinary actions.

11 (e) Reviewing the quality of medical practice carried out by physician and
12 surgeon certificate holders under the jurisdiction of the board.

13 (f) Approving undergraduate and graduate medical education programs.

14 (g) Approving clinical clerkship and special programs and hospitals for the
15 programs in subdivision (f).

16 (h) Issuing licenses and certificates under the board's jurisdiction.

17 (i) Administering the board's continuing medical education program.

18 5. Section 2227 of the Code provides that a licensee who is found guilty under the
19 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
20 one year, placed on probation and required to pay the costs of probation monitoring, or such other
21 action taken in relation to discipline as the Board deems proper.

22 6. Section 2234 of the Code, states:

23 The board shall take action against any licensee who is charged with
24 unprofessional conduct. In addition to other provisions of this article, unprofessional
25 conduct includes, but is not limited to, the following:

26 (a) Violating or attempting to violate, directly or indirectly, assisting in or
27 abetting the violation of, or conspiring to violate any provision of this chapter.

28 (b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more
negligent acts or omissions. An initial negligent act or omission followed by a
separate and distinct departure from the applicable standard of care shall constitute
repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically

1 appropriate for that negligent diagnosis of the patient shall constitute a single
2 negligent act.

3 (2) When the standard of care requires a change in the diagnosis, act, or
4 omission that constitutes the negligent act described in paragraph (1), including, but
5 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
6 licensee's conduct departs from the applicable standard of care, each departure
7 constitutes a separate and distinct breach of the standard of care.

8 (d) Incompetence.

9 (e) The commission of any act involving dishonesty or corruption which is
10 substantially related to the qualifications, functions, or duties of a physician and
11 surgeon.

12 (f) Any action or conduct which would have warranted the denial of a
13 certificate.

14 (g) The practice of medicine from this state into another state or country
15 without meeting the legal requirements of that state or country for the practice of
16 medicine. Section 2314 shall not apply to this subdivision. This subdivision shall
17 become operative upon the implementation of the proposed registration program
18 described in Section 2052.5.

19 (h) The repeated failure by a certificate holder, in the absence of good cause, to
20 attend and participate in an interview by the board. This subdivision shall only apply
21 to a certificate holder who is the subject of an investigation by the board.

22 7. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
23 adequate and accurate records relating to the provision of services to their patients constitutes
24 unprofessional conduct.

25 8. Section 3501 of the Code states, in pertinent part:

26 (a) As used in this chapter:

27 (1) "Board" means the Physician Assistant Board.

28 ...

(4) "Physician assistant" means a person who meets the requirements of this
chapter and is licensed by the board.

...

(6) "Supervision" means that a licensed physician and surgeon oversees the
activities of, and accepts responsibility for, the medical services rendered by a
physician assistant.

(7) "Regulations" means the rules and regulations as set forth in Chapter 13.8
(commencing with Section 1399.500) of Title 16 of the California Code of
Regulations.

...

1 (10) "Delegation of services agreement" means the writing that delegates to a
2 physician assistant from a supervising physician the medical services the physician
assistant is authorized to perform consistent with subdivision (a) of Section 1399.540
of Title 16 of the California Code of Regulations.

3 (11) "Other specified medical services" means tests or examinations performed
4 or ordered by a physician assistant practicing in compliance with this chapter or
regulations of the Medical Board of California promulgated under this chapter.

5 (12) "Medical records review meeting" means a meeting between the
6 supervising physician and surgeon and the physician assistant during which medical
7 records are reviewed to ensure adequate supervision of the physician assistant
functioning under protocols. Medical records review meetings may occur in person or
by electronic communication.

8 (b) A physician assistant acts as an agent of the supervising physician when
9 performing any activity authorized by this chapter or regulations adopted under this
chapter.

10 9. Section 3502 of the Code states, in pertinent part:

11 (a) Notwithstanding any other law, a physician assistant may perform those
12 medical services as set forth by the regulations adopted under this chapter when the
13 services are rendered under the supervision of a licensed physician and surgeon who
14 is not subject to a disciplinary condition imposed by the Medical Board of California
prohibiting that supervision or prohibiting the employment of a physician assistant.
The medical record, for each episode of care for a patient, shall identify the physician
and surgeon who is responsible for the supervision of the physician assistant.

15 (b)(1)

16 ...

17 (2) The supervising physician and surgeon shall be physically available to the
18 physician assistant for consultation when that assistance is rendered. A physician
19 assistant assisting a doctor of podiatric medicine shall be limited to performing those
duties included within the scope of practice of a doctor of podiatric medicine.

20 (c) (1) A physician assistant and his or her supervising physician and surgeon
21 shall establish written guidelines for the adequate supervision of the physician
22 assistant. This requirement may be satisfied by the supervising physician and surgeon
adopting protocols for some or all of the tasks performed by the physician assistant.
The protocols adopted pursuant to this subdivision shall comply with the following
requirements:

23 (A) A protocol governing diagnosis and management shall, at a minimum,
24 include the presence or absence of symptoms, signs, and other data necessary to
25 establish a diagnosis or assessment, any appropriate tests or studies to order, drugs to
recommend to the patient, and education to be provided to the patient.

26 (B) A protocol governing procedures shall set forth the information to be
27 provided to the patient, the nature of the consent to be obtained from the patient, the
preparation and technique of the procedure, and the followup care.

28 (C) Protocols shall be developed by the supervising physician and surgeon or
adopted from, or referenced to, texts or other sources.

1 (D) Protocols shall be signed and dated by the supervising physician and
2 surgeon and the physician assistant.

3 (2) (A) The supervising physician and surgeon shall use one or more of the
4 following mechanisms to ensure adequate supervision of the physician assistant
5 functioning under the protocols:

6 (i) The supervising physician and surgeon shall review, countersign, and date a
7 sample consisting of, at a minimum, 5 percent of the medical records of patients
8 treated by the physician assistant functioning under the protocols within 30 days of
9 the date of treatment by the physician assistant.

10 (ii) The supervising physician and surgeon and physician assistant shall conduct
11 a medical records review meeting at least once a month during at least 10 months of
12 the year. During any month in which a medical records review meeting occurs, the
13 supervising physician and surgeon and physician assistant shall review an aggregate
14 of at least 10 medical records of patients treated by the physician assistant functioning
15 under protocols. Documentation of medical records reviewed during the month shall
16 be jointly signed and dated by the supervising physician and surgeon and the
17 physician assistant.

18 (iii) The supervising physician and surgeon shall review a sample of at least 10
19 medical records per month, at least 10 months during the year, using a combination of
20 the countersignature mechanism described in clause (i) and the medical records
21 review meeting mechanism described in clause (ii). During each month for which a
22 sample is reviewed, at least one of the medical records in the sample shall be
23 reviewed using the mechanism described in clause (i) and at least one of the medical
24 records in the sample shall be reviewed using the mechanism described in clause (ii).

25 (B) In complying with subparagraph (A), the supervising physician and surgeon
26 shall select for review those cases that by diagnosis, problem, treatment, or procedure
27 represent, in his or her judgment, the most significant risk to the patient.

28 (3) Notwithstanding any other law, the Medical Board of California or the
board may establish other alternative mechanisms for the adequate supervision of the
physician assistant.

...

(f) Compliance by a physician assistant and supervising physician and surgeon
with this section shall be deemed compliance with Section 1399.546 of Title 16 of the
California Code of Regulations.

10. Section 3527 of the Code states, in pertinent part:

...

(c) The Medical Board of California may order the denial of an application for,
or the issuance subject to terms and conditions of, or the suspension or revocation of,
or the imposition of probationary conditions upon, an approval to supervise a
physician assistant, after a hearing as required in Section 3528, for unprofessional
conduct, which includes, but is not limited to, a violation of this chapter, a violation
of the Medical Practice Act, or a violation of the regulations adopted by the board or
the Medical Board of California.

...

1 REGULATORY PROVISIONS

2 11. Section 1399.540 of the California Code of Regulations states:

3 1399.540. Limitation on Medical Services.

4 (a) A physician assistant may only provide those medical services which he or
5 she is competent to perform and which are consistent with the physician assistant's
6 education, training, and experience, and which are delegated in writing by a
supervising physician who is responsible for the patients cared for by that physician
assistant.

7 (b) The writing which delegates the medical services shall be known as a
8 delegation of services agreement. A delegation of services agreement shall be signed
9 and dated by the physician assistant and each supervising physician. A delegation of
10 services agreement may be signed by more than one supervising physician only if the
same medical services have been delegated by each supervising physician. A
physician assistant may provide medical services pursuant to more than one
delegation of services agreement.

11 (c) The board or Medical Board of California or their representative may
12 require proof or demonstration of competence from any physician assistant for any
tasks, procedures or management he or she is performing.

13 (d) A physician assistant shall consult with a physician regarding any task,
14 procedure or diagnostic problem which the physician assistant determines exceeds his
or her level of competence or shall refer such cases to a physician.

15 12. Section 1399.541 of the California Code of Regulations states:

16 1399.541. Medical Services Performable.

17 Because physician assistant practice is directed by a supervising physician, and
18 a physician assistant acts as an agent for that physician, the orders given and tasks
19 performed by a physician assistant shall be considered the same as if they had been
20 given and performed by the supervising physician. Unless otherwise specified in
these regulations or in the delegation or protocols, these orders may be initiated
without the prior patient specific order of the supervising physician.

21 In any setting, including for example, any licensed health facility, out-patient
22 settings, patients' residences, residential facilities, and hospices, as applicable, a
physician assistant may, pursuant to a delegation and protocols where present:

23 (a) Take a patient history; perform a physical examination and make an
24 assessment and diagnosis therefrom; initiate, review and revise treatment and therapy
25 plans including plans for those services described in Section 1399.541(b) through
Section 1399.541(i) inclusive; and record and present pertinent data in a manner
meaningful to the physician.

26 (b) Order or transmit an order for x-ray, other studies, therapeutic diets,
physical therapy, occupational therapy, respiratory therapy, and nursing services.

27 (c) Order, transmit an order for, perform, or assist in the performance of
28 laboratory procedures, screening procedures and therapeutic procedures.

1 (d) Recognize and evaluate situations which call for immediate attention of a
physician and institute, when necessary, treatment procedures essential for the life of
2 the patient.

3 (e) Instruct and counsel patients regarding matters pertaining to their physical
and mental health. Counseling may include topics such as medications, diets, social
4 habits, family planning, normal growth and development, aging, and understanding of
and long-term management of their diseases.

5 (f) Initiate arrangements for admissions, complete forms and charts pertinent to
6 the patient's medical record, and provide services to patients requiring continuing
care, including patients at home.

7 (g) Initiate and facilitate the referral of patients to the appropriate health
8 facilities, agencies, and resources of the community.

9 (h) Administer or provide medication to a patient, or issue or transmit drug
orders orally or in writing in accordance with the provisions of subdivisions (a)-(f),
10 inclusive, of Section 3502.1 of the Code.

11 (i)(1) Perform surgical procedures without the personal presence of the
supervising physician which are customarily performed under local anesthesia. Prior
12 to delegating any such surgical procedures, the supervising physician shall review
documentation which indicates that the physician assistant is trained to perform the
13 surgical procedures. All other surgical procedures requiring other forms of anesthesia
may be performed by a physician assistant only in the personal presence of a
14 supervising physician.

15 (2) A physician assistant may also act as first or second assistant in surgery
under the supervision of a supervising physician. The physician assistant may so act
16 without the personal presence of the supervising physician if the supervising
physician is immediately available to the physician assistant. "Immediately available"
17 means the physician is physically accessible and able to return to the patient, without
any delay, upon the request of the physician assistant to address any situation
18 requiring the supervising physician's services.

19 13. Section 1399.545 of the California Code of Regulations states:

20 1399.545. Supervision Required.

21 (a) A supervising physician shall be available in person or by electronic
communication at all times when the physician assistant is caring for patients.

22 (b) A supervising physician shall delegate to a physician assistant only those
23 tasks and procedures consistent with the supervising physician's specialty or usual
and customary practice and with the patient's health and condition.

24 (c) A supervising physician shall observe or review evidence of the physician
25 assistant's performance of all tasks and procedures to be delegated to the physician
assistant until assured of competency.

26 (d) The physician assistant and the supervising physician shall establish in
27 writing transport and back-up procedures for the immediate care of patients who are
in need of emergency care beyond the physician assistant's scope of practice for such
28 times when a supervising physician is not on the premises.

1 (e) A physician assistant and his or her supervising physician shall establish in
2 writing guidelines for the adequate supervision of the physician assistant which shall
3 include one or more of the following mechanisms:

4 (1) Examination of the patient by a supervising physician the same day as care
5 is given by the physician assistant;

6 (2) Countersignature and dating of all medical records written by the
7 physician assistant within thirty (30) days that the care was given by the physician
8 assistant;

9 (3) The supervising physician may adopt protocols to govern the performance
10 of a physician assistant for some or all tasks. The minimum content for a protocol
11 governing diagnosis and management as referred to in this section shall include the
12 presence or absence of symptoms, signs, and other data necessary to establish a
13 diagnosis or assessment, any appropriate tests or studies to order, drugs to
14 recommend to the patient, and education to be given the patient. For protocols
15 governing procedures, the protocol shall state the information to be given the
16 patient, the nature of the consent to be obtained from the patient, the preparation and
17 technique of the procedure, and the follow-up care. Protocols shall be developed by
18 the physician, adopted from, or referenced to, texts or other sources. Protocols shall
19 be signed and dated by the supervising physician and the physician assistant. The
20 supervising physician shall review, countersign, and date a minimum of 5% sample
21 of medical records of patients treated by the physician assistant functioning under
22 these protocols within thirty (30) days. The physician shall select for review those
23 cases which by diagnosis, problem, treatment or procedure represent, in his or her
24 judgment, the most significant risk to the patient;

25 (4) Other mechanisms approved in advance by the board.

26 (f) The supervising physician has continuing responsibility to follow the
27 progress of the patient and to make sure that the physician assistant does not function
28 autonomously. The supervising physician shall be responsible for all medical services
provided by a physician assistant under his or her supervision.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts and Failure to Adequately Supervise Physician Assistant)

14. Respondent is subject to disciplinary action under Code sections 2234, subdivision
(c), 3501 and 3502 and California Code of Regulations Sections 1399.541 and 1399.545 in that
Respondent committed repeated negligent acts in connection with his provision of medical
services to patients and failed to adequately supervise a physician assistant.

Patient A¹

15. On or about October 28, 2015, Physician Assistant 1 at the Pomona Mission Medical
Clinic saw Patient A, a 47-year-old woman for family planning. The history and physical

¹ Patients are designated by letters to address privacy concerns. Medical professionals other than Respondent are designated by numbers. Identities are known to Respondent and/or will be disclosed in response to a request for discovery.

1 examination section of the chart note was limited, a gynecological examination was absent and
2 vital signs were incomplete. The assessment was listed as family planning and the plan included
3 oral contraceptive pills, lab tests and counseling.

4 16. A report, dated October 29, 2015, showed several abnormal laboratory results,
5 including a critical fasting glucose level of 404 mg/dl, elevated cholesterol, and triglycerides.
6 Respondent reviewed these results on or about November 2, 2015, and signed the laboratory
7 report showing a glucose fasting result of 404; he circled the abnormal labs, and the return STAT
8 box on the stamp.

9 17. On or about November 18, 2015, Physician Assistant 1, saw Patient A again at a
10 follow up visit. The history and physical sections of the chart were incomplete. She documented
11 that results were explained. However, no gynecologic examination or PAP smear was performed.
12 Her assessment included family planning. Her management plan included continuation of
13 condoms, no oral contraceptives, and another follow up in three months for treatment of Patient
14 A's blood sugar levels.

15 18. On or about October 28, 2015 and thereafter, Respondent committed the following
16 negligent acts in connection with Patient A: (a) failing to adequately follow up with Patient A and
17 manage her abnormal test results in a timely manner; (b) failing to adequately supervise the
18 medical services of Physician Assistant 1; (c) failing to keep adequate and accurate medical
19 records; and (d) failing to adequately examine and/or assess the patient, and/or document the
20 same. The circumstances are as follows:

21 19. Patient A's medical records at Pomona Mission Medical Clinic were incomplete and
22 illegible. They also failed to include any medical history, family history, contraceptive history,
23 habits, sexual history, and information regarding the patient's medications. The physical
24 examination section of the records was incomplete, including a failure to document any vital
25 signs and gynecologic exam. Patient A's laboratory test results indicated a number of
26 abnormalities, including a critically high glucose level. Respondent failed to adequately follow
27 up and manage these abnormalities in a timely manner. Respondent should have determined that
28 a critically elevated glucose required immediate management.

1 Patient B

2 20. On or about October 30, 2015, Respondent saw Patient B, a 45-year-old woman at
3 Pomona Mission Medical Clinic for family planning and a PAP smear. Her history and physical
4 were limited. Respondent's assessment and management plan were not legible.

5 21. A report, dated November 5, 2015, showed several abnormal laboratory results, a
6 PAP smear with an unsatisfactory specimen, elevated glucose (161 mg/dl), elevated cholesterol,
7 and elevated triglycerides. The laboratory results reviewed by a Physician Assistant 2 on
8 November 14, 2015. The abnormal labs were noted. The patient's follow up appointment was
9 scheduled for December 5, 2015.

10 22. On or about October 30, 2015, and thereafter, Respondent committed the following
11 distinct negligent acts in connection with Patient B: (a) failing to adequately follow up with
12 Patient B and manage her abnormal test results in a timely manner and coordinate further
13 management; (b) failing to adequately supervise the medical services of Physician Assistant 2; (c)
14 failing to keep adequate and accurate medical records; and (d) failing to adequately examine
15 and/or assess the patient, and/or document the same.

16 Patients A and B

17 23. Respondent committed negligence in connection with Patients A and B by failing to
18 follow up and manage their abnormal health conditions in a timely manner. Moreover, he failed
19 to have an adequate test result management protocol in place to address critical test results and
20 coordinate further management. Failure to follow up test results in a timely and adequate manner
21 could result in a delay in treatment and diagnosis, and placed the health of the patients at
22 significant risk. He failed to adequately supervise the midlevel practitioners, Physician Assistants
23 1 and 2. The medical records of the patients were incomplete and not clearly legible. The history
24 and physical information was lacking, medications were not listed, and management of abnormal
25 results poorly documented.

26 24. On or about March 7, 2019, a Department of Consumer Affairs investigator
27 interviewed Respondent. Respondent stated that he worked at the Pomona Mission Medical
28 Clinic from in or around April 2015 through in or around April 2018. He further stated that in

1 addition to treating patients, he supervised Physician Assistant 1, during the time period when
2 Patients A and B received treatment at the clinic. Respondent did not write the Delegation of
3 Service Agreement (DSA) for Physician Assistant 1. Instead, the unlicensed wife of Physician 1²
4 (who had been impaired and unable to practice at least since 2017) presented the completed DSA
5 to Respondent, and Respondent signed the DSA. Respondent did not question the services
6 delegated to Physician Assistant 1 in the DSA.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Failure to Maintain Adequate Medical Records)**

9 25. Respondent is subject to disciplinary action under Code section 2266 in that
10 Respondent failed to maintain adequate and accurate records related to the provision of medical
11 services to a patient. The circumstances are as follows:

12 26. The allegations of the First Cause for Discipline, inclusive, are incorporated herein by
13 reference as if fully set forth.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(General Unprofessional Conduct)**

16 27. Respondent is subject to disciplinary action under Code section 2234, in that his
17 actions and/or omissions represent unprofessional conduct, generally. The circumstances are as
18 follows:

19 28. The allegations of the First and Second Causes for Discipline are incorporated herein
20 by reference as if fully set forth.

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26 ² Physician 1 surrendered his medical license to the Board effective February 7, 2018.
27 Physician Assistant 1 stated in a declaration under the penalty of perjury that in January 2012 she
28 began employment as a physician assistant at Pomona Mission Medical Clinic and that since
Respondent joined the practice in 2015, she had not witnessed Physician 1 render care to any
patient, nor had he consulted and assisted on any patient care matters, and that if she had an
emergency or require assistance from a physician, she consulted with Respondent exclusively.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 66159, issued to Cesar Alvaro Rodriguez, M.D.;
2. Revoking, suspending or denying approval of Cesar Alvaro Rodriguez, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Cesar Alvaro Rodriguez, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: FEB 14 2020



CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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